

Remarks

The Examiner has imposed a restriction requirement and/or election as follows:

- I. Claims 1-5, drawn to a method for modeling an investment fund mix, classified in class 705, subclass 36R.
- II. Claims 6-8, drawn to a method for identifying a fund mix for producing a projected accumulation investment amount, classified in class 705, subclass 36R.
- III. Claims 9-11, 13-23, 45-46, drawn to a method for projecting an accumulated investment amount for a portfolio, classified in class 705, subclass 36R.
- IV. Claims 24-26 and 41-43, drawn to a method for modeling a fixed retirement income amount, classified in class 705, subclass 36R.
- V. Claims 27-29, drawn to a method for pricing fund charges for an investment fund, classified in class 705, subclass 36R.
- VI. Claims 30-31, drawn to a method for processing a selected guaranteed accumulation investment amount for a user, classified in class 705, subclass 36R.
- VII. Claims 32-34, drawn to a method for combining electronic fund reports for a plurality of funds, classified in class 705, subclass 36R.
- VIII. Claims 35-40, drawn to a method for processing for a user a guaranteed accumulation investment amount, classified in class 705, subclass 36R.
- IX. Claim 44, drawn to a method for determining a reserve for an investment fund, classified in class 705, subclass 36R.

1. Election in Response to Restriction

Pursuant to 37 C.F.R. § 1.142, Applicant hereby elects Group III (claims 9-11, 13-23 and 45-46) with traverse. Claims 1-8 and 24-44 are withdrawn as being directed to non-elected subject matter pursuant to 37 C.F.R. § 1.142(b). All of the pending claims now read on the elected subject matter.

In addition, Applicant reserves the right to petition for rejoinder under 37 C.F.R. §1.144 should a search of the elected group fail to reveal prior art related to the subject matter of the claims.

Applicant further reserves the right to rejoinder of restricted claims, such as product and method of use claims, under M.P.E.P. §821.04.

Applicant also reserves the right pursuant to 35 U.S.C. §121 to file one or more divisional applications directed to the non-elected subject matter during the pendency of the present application. Finally, Applicant notes the right to petition the restriction under 37 C.F.R. §1.181 upon a request for consideration if the restriction is made final.

2. Traversal of Examiner's Restriction

Applicant traverses the Examiner's nine-way restriction of the application on the grounds that the basis for restriction pursuant to M.P.E.P. §803 has not been met.

An application may properly be required to be restricted to one of two or more claimed inventions only if:

1. the inventions are independent or distinct as claimed; and
 2. the search and examination of the entire application places a serious burden on the examiner.
- M.P.E.P. §803.

Restriction is only proper when both conditions are satisfied.

A. Claims In Groups I to IX Are Not "Independent" Inventions

As outlined in M.P.E.P. §802.01(I),

The term "independent" (i.e., not dependent) means that there is no disclosed relationship between the two or more invention claimed, that is, they are unconnected in design, operation, and effect. For example, a process and an apparatus incapable of being used to practice the process are independent inventions. (Emphasis added).

Applicant submits that the inventions are not "independent", as they are not "unconnected in design, operation, and effect". In fact, they have the same design, operation and effect. All of the

pending claims are related to one another by virtue of the fact that they share one or more common claim limitations. In this instance, there is a clear relationship between all of the different restricted groups of claims.

Furthermore, if this feature of the claimed invention proves to be novel upon examination, all of the originally presented claims will be novel. Applicant therefore submits that the current restriction is not proper and should be withdrawn.

B. Claims In Groups I to IX Are Not "Distinct" Inventions

The Examiner's attention is respectfully drawn to M.P.E.P. §806.05(j), which states that

To support a requirement for restriction between two or more related product invention, or between two or more related process invention, both two-way distinctness and reasons for insisting on restriction are necessary, i.e. separate classification, status in the art, or field of search. See M.P.E.P. §808.02.

M.P.E.P. §806.05(j) goes on to outline the three requirements under related inventions:

... the inventions are distinct if

(A) the inventions as claimed do not overlap in scope, i.e., are mutually exclusive;

(B) the inventions as claimed are not obvious variants; and

(C) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 802.01.

The burden is on the examiner to provide an example to support the determination that the inventions are distinct, but the example need not be documented. If applicant either proves or provides convincing evidence that the example suggested by the examiner is not workable, the burden is on the examiner to suggest another viable example or withdraw the restriction requirement.

Applicant submits that the claims in Groups I to IX do not display either two-way distinctness nor a reason for insisting on restriction. As to the former, at a minimum, the invention do not have a materially different design, mode of operation, function, or effect. As to the latter, all of the claims are identified as being in the same class 705, subclass 36R. As such, the claims do not have separate classification, status in the art, or field of search.

C. The Search and Examination of All Claims is Not "Undue"

The Examiner's attention is respectfully drawn to M.P.E.P. §808.02:

Where the related inventions as claimed are shown to be independent or distinct under the criteria of MPEP § 806.05(c) - § 806.06, the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the

examiner if restriction is not required. Thus the examiner must show by appropriate explanation one of the following:

(A) Separate classification thereof: This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification.

(B) A separate status in the art when they are classifiable together: Even though they are classified together, each invention can be shown to have formed a separate subject for inventive effort when the examiner can show a recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search.

(C) A different field of search: Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes/subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search.

Where, however, the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among independent or related inventions.

As the Examiner has classified Groups I to IX in the identical class and subclass, explanation (A) has not been met. Applicant submits that the search and examination of all the groups would not be "undue".

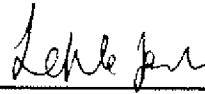
In light of the foregoing, the claims of Groups I to IX are not independent and have not achieved separate classification, a separate status in the art, or a different field of search. Accordingly, examination of the entire application does not place a serious burden on the examiner and the restriction requirement should be withdrawn.

CONCLUSION

Applicant respectfully submits that all pending Claims of the captioned Application satisfy all requirements for patentability and are in condition for allowance. An early indication of the same is therefore respectfully requested. Should the Examiner not agree, the Applicant respectfully asks the Examiner to contact the undersigned at 214-466-4116 (direct line) to discuss any remaining issues and accelerate the examination and allowance of this application. Authorization is granted to charge any outstanding fees due at this time for the continued prosecution of this matter to Morgan, Lewis & Bockius LLP Deposit Account No. 50-0310 (Client Matter No. 064385-5030US).

Respectfully submitted,

Date: December 10, 2007



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